

## Report to Council

<b>Report Title:</b>	Letter of Credit Policy		
<b>Prepared By:</b>	Trish Serratore, Chief Financial Officer		
<b>Department:</b>	Finance		
<b>Date:</b>	June 18, 2024		
<b>Report Number:</b>	FIN2024-20	<b>File Number:</b>	C11FIN, A09
<b>Attachments:</b>	Letter of Credit Policy		

### **Recommendation:**

That the Council of the Municipality of Brockton hereby receives Report Number FIN2024-20 - Letter of Credit Policy, prepared by Trish Serratore, Chief Financial Officer and in doing so approves a By-Law coming forward to adopt the Letter of Credit Policy.

### **Report:**

#### **Background:**

The Municipality of Brockton often requires a Letter of Credit (LOC) to be submitted as a condition of a contract, subdivision agreement, or site plan agreement to help ensure that financial and/or performance obligations are met. Staff will often receive inquiries from stakeholders regarding the acceptable format of the LOC, or alternatives that the Municipality is willing to accept in place of a LOC. In the absence of a standardized policy and guidelines surrounding this process, staff must review and assess each request individually, which may not always result in a consistent approach. External legal counsel is also consulted, depending on the nature of the request.

#### **Analysis:**

The purpose of this LOC Policy is to establish minimum standards for letters of credit to protect the financial interests of the Municipality. The policy defines the requirements for the use of a Letter of Credit, including:

- Acceptable letter format and content;
- Issuing financial institution requirements;
- Acceptable security alternatives; and
- Staff responsibilities

In place of certified cheques, bank drafts or money orders, Letters of Credit are a suitable option for beneficiaries for the following reasons:

- Letters of Credit are an unconditional obligation of a financial institution to remit payment to the Municipality on demand;
- The issuing bank’s obligation to pay is independent of the underlying contract, and therefore the Municipality does not need to prove a breach of contract and the extent to which we suffered damages;
- Letters of Credit are governed by their own legal principles rather than contract law, and are therefore easier to enforce and collect upon;

The LOC Policy requires that all Letters of Credit be issued by Schedule I Banks, which are domestic banks authorized under Schedule I of the *Bank Act*. There are 34 Schedule I banks in Canada, including Royal Bank of Canada, Toronto Dominion Bank, Scotiabank, Bank of Montreal, and Canadian Imperial Bank of Commerce (Big Five).

Credit Unions are not listed in Schedule I of the *Bank Act* as these organizations are regulated by Provincial and territorial governments rather than the Federal Government under the *Credit Unions and Caisses Populaires Act, 2020*. Credit Unions are owned by their members, with a board of directors elected from the membership base.

The LOC Policy permits letters of credit issued by Credit Unions provided that certain conditions are met. One of these requirements includes being a member of *Central 1*, which provides liquidity management and other related services to its member credit unions in Ontario. This condition is imposed to ensure adequate liquidity is maintained, which reduces the level of risk to the Municipality.

Other alternatives, such as Letters of Guarantee or Surety Bonds, will not be accepted. Surety Bonds are demand instruments and they involve a claims adjustment process whereby the surety must investigate the underlying default. This slows down the reimbursement process, and sureties will deny claims they believe are without merit. This poses a significantly higher risk to the Municipality. Therefore, while some developers may prefer Surety Bonds as they do not impact their borrowing capacity and are less costly to procure, they are not an acceptable alternative under the Letter of Credit Policy.

Staff reviewed the Letter of Credit policies established by other municipalities and developed a suitable policy in consideration of the size of our organization. This Policy has been developed to minimize the financial risk to the organization. Any deviations or exceptions to this policy will increase the Municipality’s financial risk.

**Strategic Action Plan Checklist:**

What aspect of the Brockton Strategic Action Plan does the content/recommendations in this report help advance?

- |   |     |
|---|-----|
| • Recommendations help move the Municipality closer to its Vision                       | Yes |
| • Recommendations contribute to achieving Heritage, Culture, and Community              | N/A |
| • Recommendations contribute to achieving Quality of Life                               | N/A |
| • Recommendations contribute to achieving Land Use Planning and the Natural Environment | Yes |
| • Recommendations contribute to achieving Economic Development                          | Yes |
| • Recommendations contribute to achieving Municipal Governance                          | Yes |

**Financial Impacts/Source of Funding:**

- Do the recommendations represent a sound financial investment from a sustainability perspective?  
N/A

This policy limits the municipalities financial risk and there are no direct financial considerations associated with the development of this policy.

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**Respectfully Submitted by:**

Trish Serratore, Chief Financial Officer

**Reviewed By:**

Sonya Watson, Chief Administrative Officer